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*Attorneys for Defendant Home Depot U.S.A, Inc.*

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**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF UTAH – NORTHERN DIVISION**

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JEANINE NIELSEN,  
  
Plaintiff,  
  
v.

HOME DEPOT U.S.A., INC., a foreign  
corporation, d/b/a THE HOME DEPOT, and  
DOES I-X,  
  
Defendants.

**DEFENDANT HOME DEPOT U.S.A.,  
INC.’S NOTICE OF REMOVAL OF  
ACTION UNDER 28 U.S.C. §§ 1332, 1441,  
AND 1446 (DIVERSITY JURISDICTION);  
DEMAND FOR JURY TRIAL**

Civil No. 1:20-cv-00135-JCB

Judge Magistrate Judge Jared C. Bennett

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Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Home Depot U.S.A., Inc. (“Defendant”), by and through its counsel of record, Snow, Christensen & Martineau, hereby gives notice of removal of the civil action pending in the First Judicial District Court for Cache County, State of Utah, entitled *Jeanine Nielsen v. Home Depot U.S.A., Inc., a foreign corporation, d/b/a The Home Depot, and Does I-X*, Case No. 200100267, to this Court. The grounds for removal are as follows:

1. On September 14, 2020, Plaintiff filed a Complaint against the Defendants in the First Judicial District Court of Cache County, state of Utah, by filing an action styled *Jeanine Nielsen v. Home Depot U.S.A., Inc., a foreign corporation, d/b/a The Home Depot, and Does I-X*, Case No. 200100267 (the “State Court Case”). The Complaint is attached hereto as Exhibit 1 to this Notice of Removal.

2. Defendant Home Depot U.S.A., Inc. was served on September 21, 2020. Proof of Service is attached hereto as Exhibit 2.

3. The Complaint alleges that Plaintiff Jeanine Nielsen was injured, that the alleged incident underlying the Complaint occurred in Cache County, State of Utah, and that she is a resident of Cache County, State of Utah.

4. Both at the time that this action was commenced and at this time, Home Depot U.S.A., Inc. was incorporated in Delaware and has its principal place of business in Georgia. Home Depot’s corporate offices are located in Atlanta, Georgia, where its finance, accounting, purchasing, treasury, marketing, training, human resources, information systems, internal audit, and legal departments are located, making policy decisions that affect the entire company. “[P]rincipal place of business’ refers to the place where a corporation’s officers direct, control, and coordinate the corporation's activities... i.e., the ‘nerve center.’” (*Hertz Corp. v. Friend*, 130 S.Ct. 1181, 1184 (U.S., 2010).) “For purposes of removal... the citizenship of defendants sued under fictitious names shall be disregarded.” (28 U.S.C. §1441(a).)

5. Defendant Home Depot U.S.A., Inc. is a foreign corporation authorized to do business in the State of Utah.

6. Defendant Home Depot U.S.A., Inc. filed its Answer in First Judicial District Court on October 13, 2020. A copy is attached as Exhibit 3.

7. Removal of this action is timely under 28 U.S.C. §1446(b)(1) as it is filed within thirty days from the date of service upon Defendant.

8. Removal of this action is proper under 28 U.S.C. §§ 1332(a) and 1441(b). This Court has diversity jurisdiction over this matter as Defendant is a foreign corporation, and is not domiciled in the State of Utah. In addition, by virtue of having filed her Complaint under Tier 3, Plaintiff seeks damages in excess of \$75,000, the jurisdictional requirement.

9. Removal of this action is timely under 28 U.S.C. §1446(b) and the removal is proper based upon diversity of citizenship of the parties. Accordingly, the requirements of 28 U.S.C. §1441(a) are met.

10. Notice of this removal is being served this date upon counsel for the Plaintiff.

11. A true and correct copy of this Notice is being filed this date with the Clerk of the First Judicial District Court in and for Cache County, State of Utah.

12. As referenced above, a copy of the original Complaint along with proof of service are attached and included as Exhibits 1 and 2. Also included in Exhibit 1 and Exhibit 2 are electronic notifications filed in the State Court Case. Exhibit 3 is a copy of the Answer. Attached as Exhibit 4 is a copy of the electronic docket for the State Court Case. This constitutes all process, pleadings and orders.

Based on the foregoing, Defendant hereby removes the action against it from the First Judicial District Court in and for Cache County, State of Utah, to the United States District Court for the Northern District of Utah.

DATED this 20<sup>th</sup> day of October, 2020.

**SNOW CHRISTENSEN & MARTINEAU**

/s/ Robert W. Thompson  
Robert W. Thompson  
*Attorneys for Defendant Home Depot U.S.A., Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of October, 2020, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification to the following:

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/s/ Robert W. Thompson\_\_\_\_\_